

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

PATRICK DEON DAVIS, #1315341                   §  
VS.   §                   CIVIL ACTION NO. 6:07cv397  
DIRECTOR, TDCJ-CID                               §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation for the disposition of the petition for a writ of habeas corpus. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the petition for a writ of habeas corpus with respect to the attempted murder and unlawful possession of a firearm convictions are **DENIED** with prejudice. It is further

**ORDERED** that the petition for a writ of habeas corpus with respect to the aggravated assault conviction is **DENIED** without prejudice and that the conviction is **VACATED** and the sentence suspended in light of the concurrent sentence doctrine. It is further

**ORDERED** that the Director shall update the Petitioner's prison records to show that the aggravated assault conviction is vacated and the sentence suspended. It is further

**ORDERED** that a certificate of appealability is **DENIED**. It is finally

**ORDERED** that all motions not previously ruled on are hereby **DENIED**.

**SIGNED** this 17th day of April, 2008.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a horizontal line underneath the name.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE